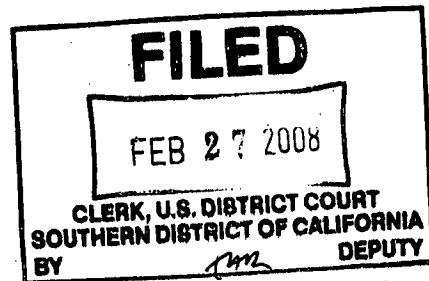


AUSA



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Francisco AVILA-Graciano, )  
 )  
 Defendant. )

Mag. Case No. '08 MJ 8179

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326  
Deported Alien Found In the  
United States

The undersigned complainant being duly sworn states:

On or about February 25, 2008, within the Southern District of California, defendant Francisco AVILA-Graciano, an alien, who previously had been excluded, deported or removed from the United States to Mexico was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

\_\_\_\_\_  
Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27<sup>th</sup> DAY OF  
FEBRUARY 2008.

\_\_\_\_\_  
PETER C. LEWIS  
U.S. MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

2 v.

3 Francisco AVILA-Graciano

4  
5 STATEMENT OF FACTS

6 The complainant states that this complaint is based upon the statements of the  
7 apprehending Border Patrol Agent, D. Kruger, that the Defendant, Francisco AVILA-Graciano,  
8 was found and arrested on February 25, 2008, east of the Calexico, California, West Port of  
9 Entry.

10 On February 25, 2008, at approximately 5:30 P.M., Agent Kruger was performing his  
11 assigned Border Patrol Duties near the Calexico, California, West Port of Entry. Agent Kruger  
12 observed an individual, later identified as Francisco AVILA-Graciano, make an illegal entry into  
13 the United States by climbing over the International Boundary fence with Mexico, near 353 East  
14 First Street, Calexico, California.

15 Agent Kruger responded to the area and searched for the illegal entrant. Agent Kruger  
16 located the illegal entrant and identified himself as a Border Patrol Agent. Agent Kruger  
17 questioned AVILA and determined he is a citizen of Mexico illegally in the United States.  
18 AVILA was arrested and transported to the Calexico, California Border Patrol Station for further  
19 processing.

20 Records checks revealed AVILA has been previously deported on July 6, 2004, and has  
21 an extensive criminal record.

22 There is no evidence AVILA has sought nor received permission from the Attorney  
23 General of the United States or the Secretary of the Department of Homeland Security to re-enter  
24 the United States.  
25  
26  
27  
28